



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
(Implements RCW 34.05.360)

**Agency:** Department of Social and Health Services, Aging and Long-Term Support Administration, Office of the Deaf and Hard of Hearing

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:**

The department is amending WAC 388-818-0010, 388-818-0020, and 388-818-0040, and is adding new sections to chapter 388-818 WAC to establish the standards for sign language and intermediary interpreters to be qualified to work in Washington Courts.

**Citation of existing rules affected by this order:**

Repealed: None  
 Amended: 388-818-0010, 388-818-0020, 388-818-0040  
 Suspended: None

**Statutory authority for adoption:** Chapter 2.42 RCW, RCW 2.42.130, RCW 2.42.170

**Other authority:** Chapter 2.42 RCW, RCW 2.42.130, RCW 2.42.170

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 14-18-033 on August 27, 2014 (date).  
 Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: N/A

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
 e-mail \_\_\_\_\_

**Date adopted:**

December 10, 2014

**NAME (TYPE OR PRINT)**

Katherine Vasquez

**SIGNATURE**

**TITLE**

DSHS Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED

**DATE: December 12, 2014**

**TIME: 1:00 PM**

**WSR 15-01-075**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	<u>14</u>	Amended	<u>3</u>	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	<u>14</u>	Amended	<u>3</u>	Repealed	_____

AMENDATORY SECTION (Amending WSR 03-05-100, filed 2/19/03, effective 3/22/03)

**WAC 388-818-0010 What is the purpose of this chapter?** (1) The purpose of this chapter is to provide regulations about social ~~((and))~~ services, telecommunications access services and reasonable accommodations sign language interpreting services for quasi-judicial and judicial proceedings for people with hearing loss and or speech impairments.

(2) These services are provided:

(a) Under contract with qualified service providers; or

(b) Directly through the office of the deaf and hard of hearing (ODHH) at the department of social and health services (DSHS).

(3) The purpose of this chapter related to sign language interpreting services in judicial and quasi-judicial settings legal proceedings is to:

(a) Establish the minimum qualifications for sign language interpreters to interpret in judicial and quasi-judicial settings pursuant to RCW 2.42.130; and

(b) Establish standards for payment of sign language interpreting services, pursuant to RCW 2.24.170.

AMENDATORY SECTION (Amending WSR 03-05-100, filed 2/19/03, effective 3/22/03)

**WAC 388-818-0020 What does the office of the deaf and hard of hearing do?** (1) The office of the deaf and hard of hearing (ODHH) within DSHS provides the following services ~~((to DSHS staff))~~:

(a) Provides information about hearing loss;

(b) Offers technical assistance and workshops about deafness; ~~((and))~~

(c) Identifies ways for DSHS staff to get sign language interpreter services for their clients who have hearing loss; and

(d) Administers and monitors contracts with sign language interpreters and sign language interpreter referral agencies.

(2) ODHH administers and monitors contracts with qualified service providers. These service providers offer community-based social services for clients who have hearing loss.

(3) ODHH manages the telecommunications access service program.

(4) ODHH contracts to provide telecommunications relay services (TRS).

(5) ODHH ~~((facilitates the DSHS telecommunications relay services (TRS) advisory committee on deafness))~~ provides a list of sign language interpreters and fee for service standards for fee considerations for Washington courts.

**WAC 388-818-0040 What definitions apply to this chapter? "AOC"** means the administrative office of the courts, established in chapter 2.56 RCW.

**"Amplified telephone"** means an electrical device that increases the volume or tone of sounds being received during a telephone call.

**"Applicant"** means a client who applies for specialized telecommunications equipment.

**"Audiologist"** means a person who has a certificate of clinical competence in audiology from the American Speech, Hearing, and Language Association and is licensed to practice in the state of Washington.

**"Certified Court Intermediary interpreter"** means an interpreter who is deaf who meets the qualifications required in this chapter and is included on the list administered by the office of the deaf and hard of hearing. The intermediary interpreter is deaf or hard of hearing and possesses native or near native fluency in American Sign Language. An intermediary interpreter may be needed when the communication mode of the deaf consumer is so unique that interpreters who are hearing cannot adequately access it. An intermediary interpreter acts as an intermediary between a hearing sign language interpreter and the deaf consumer.

**"Certified court sign language interpreter"** means a sign language interpreter who meets the qualifications required in this chapter and is included on the list administered by ODHH.

**"Client"** means a person who is deaf, hard of hearing, speech impaired, or deaf-blind and may receive services from ODHH.

**"Deaf"** means a condition where a person's hearing ability is absent or mostly absent.

**"Deaf-blind"** means a person with both hearing loss and visual impairments.

**"DSHS or department"** means the department of social and health services.

**"Federal poverty guidelines"** means the poverty level established by the "Poverty Income Guideline" updated annually in the Federal Register.

**"Hard of hearing"** means a condition where a person has a functional hearing loss with some residual hearing, whether permanent or fluctuation, which adversely affects communication.

**"Hearing loss"** means any form of hearing impairment, from mild to profound.

**"Intermediary Interpreter"** means an interpreter who is deaf or hard of hearing and possesses native or near native fluency in American Sign Language. An intermediary interpreter may be needed when the communication mode of the deaf consumer is so unique that interpreters who are hearing cannot adequately access it.

**"Mobility impairment"** for the purpose of this chapter means restricted upper body movement, which limits the ability to hold or dial a standard telephone to communicate. Individuals must also have a hearing loss or speech impairment.

**"ODHH"** means the office of the deaf and hard of hearing in the department of social and health services.

**"Qualified service provider"** means an agency or a business that provides social services to individuals with hearing loss or speech

impairments. A qualified service provider may also be a **"qualified trainer."**

**"Qualified trainer"** means a person under contract with TAS who is knowledgeable in the use of telecommunications equipment.

**"Relay service"** is defined under **"telecommunications relay service (TRS)."**

**"School-age"** means between four and seventeen years of age.

**"Sign language interpreter"** means a person who facilitates communication between individuals who communicate in spoken language and individuals who communicate in sign language. Sign language interpreters become certified by passing knowledge and performance tests established by the registry of interpreters for the deaf (RID) or the national association of the deaf (NAD). Certification is maintained by RID and includes the requirements that interpreters must be members of RID, comply with ongoing educational requirements, and maintain ethical standards.

**"Sliding fee scale"** means a range used to determine an applicant's participation in the cost of equipment.

**"Speech impairment"** means inability to speak or a speech disability.

**"TAS"** means the telecommunications access service program administered by the office of the deaf and hard of hearing. The program provides equipment and services to help people with hearing loss and speech impairments have equal access to telecommunications.

**"Telecommunications equipment"** means any specialized device determined by TAS in ODHH to help a person with a hearing loss or speech impairment to communicate effectively. Examples include: Amplified telephone, TTY, signaling devices, software, digital equipment, and accessories. (See WAC 388-818-0070.)

**"Telecommunications relay service (TRS)"** means wire or radio service that enables a person with hearing loss or speech impairment to communicate with a person who uses a voice telephone. This service has communication assistants who transfer telephone conversations from one format to another (such as spoken words to text) to facilitate communication between two or more people.

**"TTY"** means teletypewriter or text telephone.

**"TTY with Braille"** means a teletypewriter with Braille keyboard and display.

**"Washington courts"** means any court recognized in chapter 2.08 or 3.02 RCW.

## Sign Language Interpreters Standards In Courts

### NEW SECTION

**WAC 388-818-500 How do I qualify to be on the list of sign language interpreters who work in Washington Courts?** To be on the ODHH list of certified court interpreters, sign language and intermediary

interpreters must register with and meet qualification standards established and administered by ODHH. There are two categories of interpreters, and different requirements for each category.

NEW SECTION

**WAC 388-818-510 What authority does ODHH have to establish these standards?** Washington courts under RCW 2.42.130 may hire sign language interpreters identified by ODHH to be qualified for working in the courts. Those interpreters who meet these standards will be on a list maintained by ODHH.

NEW SECTION

**WAC 388-818-520 What are the different categories of court interpreters?** There are two categories of court interpreters:  
(1) Certified court sign language interpreters; and  
(2) Certified court intermediary interpreters.

NEW SECTION

**WAC 388-818-530 What are the requirements for certified court sign language interpreters?** Certified court sign language interpreters are presumed to be the most qualified to interpret in court hearings because of their training, skills, and experience. To qualify as a certified court sign language interpreter, you must complete the following requirements:

- (1) The applicant must hold a current certification, either:
  - (a) Specialist certificate: Legal (SC: L) from the Registry of interpreters for the deaf; or
  - (b) Registry of interpreters for the deaf (RID) certification and having passed the SC: L written test.
- (2) You must undergo a DSHS criminal background check conducted by DSHS back check central unit using DSHS form 09-653 background authorization.
- (3) You must complete the Washington courts training provided by the AOC.
- (4) You must take an oath of interpreter, as administered by the Washington courts.
- (5) You must submit a renewal registration form with ODHH annually by July 1.

NEW SECTION

**WAC 388-818-540 What are the requirements for certified court intermediary interpreters?** Certified court intermediary interpreters are presumed to be the most qualified to interpret in court hearings because of their training, skills, and experience. To qualify as a certified court intermediary interpreter, you must complete the following requirements:

- (1) The applicant must hold a current certified deaf interpreter (CDI) certification from the registry of interpreters for the deaf;
- (2) You must undergo a DSHS criminal background check conducted by DSHS background check central unit using DSHS form 09-653 background authorization;
- (3) You must complete the Washington courts training provided by the AOC;
- (4) You must take an oath of interpreter, as administered by the Washington courts; and
- (5) A registration form will be required annually by July 1.

NEW SECTION

**WAC 388-818-550 Are there any ongoing requirements for court interpreters?** (1) Certified court sign language and certified intermediary interpreters are required to maintain their certification in compliance with RID's certification maintenance program.

- (2) An updated criminal background check will be required annually by July 1.
- (3) A registration renewal form will be required annually by July 1.

NEW SECTION

**WAC 388-818-560 If I have a criminal conviction in my history, am I automatically disqualified?** No, if you have a criminal conviction in your history, you are not automatically disqualified, though a misdemeanor, gross misdemeanor, or felony conviction may be grounds for disqualification. Crimes that are automatically disqualifying can be found on the DSHS website.

NEW SECTION

**WAC 388-818-570 What is included in the Washington courts training?** Washington courts training includes information specific to the Washington court system, including, but not limited to: understanding the Washington court system, roles of various court levels, Washington legal terminology and procedure, and courtroom protocol and procedure.

Washington courts training is required for all sign language and intermediary interpreters to become certified court interpreters.

NEW SECTION

**WAC 388-818-580 How do I find out when and where training is available?** You can contact AOC for a schedule of training opportunities available.

NEW SECTION

**WAC 388-818-590 How do I add my name to the court interpreter list?** First, send a completed DSHS Form 17-155 sign language interpreter registration to ODHH, including all required attachments. To request the form, contact ODHH.

If you fulfill all prerequisites, ODHH will contact you about the next dates available for Washington courts training. After you have satisfied all requirements, your name will be added to the court interpreter list.

NEW SECTION

**WAC 388-818-600 What sign language interpreters can be hired to work in Washington courts?** To be given preference to work in Washington courts, interpreters must be certified court interpreters. In each case or hearing, courts are encouraged to make every effort possible to hire certified court interpreters and determine whether an intermediary interpreter is necessary. Courts are strongly encouraged to secure services of a team of interpreters, one sign language interpreter accompanied by an intermediary interpreter in all communication encounters. The certified court interpreters may only be released pursuant to RCW 2.42.150.

NEW SECTION

**WAC 388-818-610 Where may a court obtain a list of qualified interpreters?** ODHH will post an approved list of qualified interpreters on their website.

NEW SECTION

**WAC 388-818-620 What are the standards for fee considerations that interpreters might charge a court?** Standards for fee considerations can be found on the ODHH website.

NEW SECTION

**WAC 388-818-630 What recourse do I have if I disagree with ODHH's decision to omit or remove my name from the list?** (1) You must make a reasonable effort to resolve the dispute with ODHH by contacting the sign language interpreter manager.

(2) If the resolution fails, you may submit a written appeal explaining why you should be included on the qualified list of Certified Interpreter, to ODHH. You may deliver your statement to ODHH, in person or mail it to:

Director  
Office of the Deaf and Hard of Hearing  
PO Box 45301  
Olympia, WA 98504-5301

(3) Your appeal must be received within twenty business days of ODHH's initial notice to informing you that you have been omitted or removed from the qualified interpreter list. The ODHH director will review your documents and offer an opportunity for an in-person meeting with him or her to present your information. At this meeting you may present evidence in support of your position either in writing, by in-person witness testimony, or through affidavit.

(4) The director will issue a written decision to you within twenty business days of receipt of your statement or of your in-person meeting, whichever is later.

(5) If you disagree with the decision of the ODHH Director, you may request that DSHS appoint a representative. The request for review must be submitted to the ODHH director in writing within twenty business days of your receipt of the director's decision. ODHH will forward all documents pertaining to the dispute to the DSHS representative. The DSHS representative may request additional information from you or ODHH.

(6) The DSHS representative will issue a written decision to you within twenty business days after receipt of your request for review. The DSHS representative's decision is the final decision of the department.